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June 24, 2005

To: Supervisor Gloria Molina, Chair
Supervisor Yvonne B. Burke
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: David E. Janssen
Chief Administrative Officer

MOTION TO OPPOSE AB 359 (GORDON) UNLESS AMENDED -- ESTABLISHMENT OF A DOG BEACH AT DOCKWEILER STATE BEACH (ITEM NO. 14, AGENDA OF JUNE 28, 2005)

Item No.14 on the June 28, 2005 agenda is a motion by Supervisor Knabe to oppose AB 359 (Gordon) unless amended to include State indemnification of the County and an appropriation to cover all additional County costs to develop and operate an off-leash dog beach pilot program, and to direct the County's legislative advocates in Sacramento to work with the author to incorporate such an amendment.

AB 359, as amended on June 8, 2005, would authorize the California Department of Parks and Recreation, the California Coastal Commission, the County of Los Angeles, the City of Los Angeles, and all other interested parties to develop a memorandum of agreement (MOA) to establish an off-leash dog beach as a one-year pilot program at Dockweiler State Beach. AB 359 would require that all costs associated with the development of the MOA and the pilot program must be borne by private funding sources and that funding will be made available before any costs are incurred. It would also require the MOA to provide for signage at the pilot program area stating that visitors to the off-leash dog beach are using the area at their own risk, and that the use of the area by dog owners constitutes their agreement to protect, indemnify, defend and hold harmless the parties to the MOA. Parties to the MOA would be required to evaluate the pilot program and report to the Legislature within 6 months after the conclusion of the pilot program.

Affected County Departments

The Department of Beaches and Harbors cites concerns over the inability of dog owners to control the actions of their pets, the potential for bacterial contamination from the release of waste material in highly trafficked areas, and the high probability that a significant amount of waste will not and/or cannot be removed, despite the best intentions of dog owners. The Department anticipates that certain dogs will fight with other dogs and bite or bark at beach goers, and that children will be particularly vulnerable. In addition, because the South Bay bike trail runs adjacent to Dockweiler State Beach, dogs will be likely to chase bicyclists.

The Department of Health Services (DHS) reports that AB 359 would jeopardize the health and safety of the public. Dockweiler Beach is currently monitored for water quality by the DHS Recreational Health Program and Los Angeles City. With the addition of unleashed dogs on the beach, this could increase the monitoring activities of these agencies as well as increase the posting of warning signs if the ocean bacterial level becomes unsafe. If there is a disease outbreak among beachgoers caused by parasites or diseases that are transferred from dogs to humans, the services of the DHS veterinary office would be needed to determine the source of the outbreak and to control the problem.

The Fire Department is concerned that the necessity for County lifeguards to regulate dog activity would detract from a focus on water safety. County lifeguards are also concerned about being drawn into animal control issues for which they are not trained or equipped because there is a high level of public expectation that lifeguards will respond to every incident on the beach, including dog-related issues.

County Counsel has indicated that this proposal would result in significant issues regarding County liability and indemnification. Concerning the language in the bill apparently intended to protect from liability and to provide indemnity to the parties to the MOA, County Counsel does not believe that the indemnification language and the signage provisions will immunize the County from all liability arising from the County-authorized presence of off-leash dogs on a public beach operated by the County, or guarantee that the County would be indemnified for all such liability and litigation expense which it incurs.

The Department of Beaches and Harbors, Department of Health Services and the Fire Department recommend that the County oppose AB 359 because of health and safety concerns, and we concur.

California Department of Parks and Recreation

City of Santa Monica Councilmember Robert Shriver recently petitioned the California Department of Parks and Recreation to allow off-leash dogs on Santa Monica Beach.

The Department's response indicated that, under existing law and regulation, off-leash dogs are not permitted in parks owned and operated by the Department because they present a potential threat to visitors, park staff, wildlife and each other. The Department further noted that dogs can impact aesthetics and the sense of peace sought by many visitors to State Parks, indicating that while many people enjoy the companionship of their dogs, many other park visitors complain that their experience is negatively impacted by dogs. The agreement between the Department and the City of Santa Monica for the operation of Santa Monica Beach stipulates that the City must conform to rules and regulations in effect for State parks.

Sponsorship and Support

AB 359 is sponsored by Freeplay, a group of dog owners and supporters who work to establish off-leash dog areas in the Los Angeles area. It is supported by the American Society for the Prevention of Cruelty to Animals, United Animal Nations, California Federation for Animal Legislation, Contra Costa Humane Society, Animal Legislation Action Network, and numerous individuals. Freeplay contends that Dockweiler State Beach has many areas that are virtually empty year round and would be an appropriate place for the first off-leash dog beach in Los Angeles. They indicate that there are 50 off-leash dog beaches already in existence in California and that Los Angeles is virtually the last urban area to deny its residents beach access to recreational space for themselves and their dogs.

On June 21, 2005, the Arts, Parks, Health and Aging Committee of the City of Los Angeles endorsed a resolution from Mayor-elect Villaraigosa to support AB 359. A City Council hearing date on the measure has not yet been scheduled.

Opposition

AB 359 is opposed by Heal the Bay, a nonprofit environmental organization working to make Santa Monica Bay and Southern California coastal waters safe and healthy for people and marine life. It is also opposed by the California Department of Parks and Recreation, the Malibu Chapter of the Surfrider Foundation, Santa Monica Bay Audubon Society, Natural Resources Defense Council, and Tom Babbitt. The Defenders of Wildlife and Audubon California oppose AB 359 unless amended.

Heal the Bay acknowledges the need for dog parks in highly urban Southern California, but indicates that people are more likely to become ill after swimming at beaches that allow dogs to run or play in the surfzone or on areas of the beach that are subject to tides. They contend that even if owners diligently remove dog feces, small amounts will remain on the sand and contaminate the water, and may cause illness to exposed humans, especially children. Heal the Bay notes that children tend to play at the water's edge, the area where fecal contamination would be greatest, they tend to ingest more water than an adult, and they are more susceptible to illnesses associated with

swimming in water contaminated with fecal bacteria. They also indicate that people with compromised immune systems, including the elderly, are more susceptible to water-borne diseases than other adults.

In a letter to Senator Sheila Kuehl, Chair of the Senate Natural Resources and Water Committee, dated May 4, 2005, Rosario P. Cortes, Assistant Director of the California Department of Parks and Recreation (DPR), expressed the Department's opposition to AB 359 because off-leash dogs would conflict with the mission of the Department to protect rare and valuable natural resources having statewide significance and provide high-quality recreational pursuits for all State park visitors. He indicated that existing law and regulation prohibit dogs off-leash in any State park, or on-leash on any State beach. Local jurisdictions are responsible for operating State park units under the terms of a formal operating agreement, and are required to abide by existing statute, regulations and DPR policies. Waiving enforcement of any of those regulations or policies is not permitted. Assistant Director Cortes concludes that neither the County of Los Angeles, nor any other local entity, could legally establish an off-leash dog area at Dockweiler State Beach, or any other State beach.

Status

AB 359 failed passage on June 14, 2005 in the Senate Natural Resources and Water Committee by a vote of 3 to 6, but was granted reconsideration. It is set for hearing in that Committee on June 28, 2005.

DEJ:GK
ML:MS:lm

c: Executive Officer, Board of Supervisors
County Counsel
Department of Beaches and Harbors
Department of Health Services
Fire Department